

The Administrative Law Judge awarded claimant a seven percent permanent partial general disability for a burn injury that claimant suffered in a work-related September 18, 1997, accident. Claimant's entitlement to a work disability is not an issue. The only issue before the Appeals Board is the percent of claimant's permanent partial disability as determined by his percent of functional impairment.

On appeal, the respondent contends that claimant only proved at the most he suffered a one percent impairment of function instead of the seven percent as found by the Administrative Law Judge. Respondent argues the 20 percent impairment of function opinion given by claimant's treating physician, Randall R. Beech, M.D., is not credible and should not be considered because it was not based upon the AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition, (hereafter referred to as *Guides*) as required by statute.¹

But claimant contends the Administrative Law Judge did not err and the seven percent permanent partial general disability award should be affirmed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board concludes the Award should be affirmed.

In arriving at the seven percent permanent partial general body disability award, the Administrative Law Judge equally weighed the 20 percent functional impairment opinion of claimant's treating physician, Dr. Beech; the one percent functional impairment opinion of the physician hired by the respondent, Ronald Davis, M.D.; and the zero percent functional impairment opinion of the independent medical examining physician, John E. Schlicher, M.D., who was appointed by the Administrative Law Judge. The Appeals Board agrees with the findings and conclusions as set forth in the Award. It is not necessary to repeat those findings and conclusions in this Order. The Appeals Board, therefore, adopts those findings and conclusions as it's own.

The Appeals Board is mindful that claimant's treating physician, general and trauma surgeon Randall R. Beech, M.D., first expressed his 20 percent functional impairment opinion without considering the *Guides* as required by the statute. But, during his deposition, Dr. Beech did consider the *Guides* and found claimant's burn injury placed claimant in Class 2: 10%-24% impairment as contained in "Table 2. Impairment Classes and Percent for Skin Disorders." (p. 280) Dr. Beech found that claimant's burn injury had permanently caused his anterior chest and abdomen skin to have a loss of pigmentation, loss of oil producing glands, and had increased sensitivity to exposure to heat and sun light. Those permanent skin disorders have affected claimant's ability to obtain and retain employment in work environments that require claimant to be exposed to solvents, excessive sunlight, or extreme heat or cold. At the time claimant was released from treatment, Dr. Beech instructed claimant that he would probably be required to use lubricating creams for an indeterminable period of time because the burns caused the skin to lose lubrication ability. At the regular hearing, held on June 23, 1999, one year and nine

¹See K.S.A. 1997 Supp. 44-510e(a).

months after the accident, claimant testified he still had to apply Neosporin cream to the affected skin areas.

Thus, Dr. Beech found claimant's work-related burn injury had resulted in permanent skin disorders that limited his performance of daily living activities and required constant treatment. Those findings placed claimant in Class 2: 10%-24% impairment of Table 2, p. 280 of the *Guides*. The Appeals Board finds Dr. Beech's 20 percent impairment opinion is consistent with the 10 to 24 percent impairment range estimate as recommended by the *Guides*.

Therefore, since Dr. Davis and Dr. Schlicher also utilized the *Guides* in arriving at their functional impairment opinions, the Appeals Board finds the Administrative Law Judge's decision to equally weigh all opinions should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Administrative Law Judge Nelsonna Potts Barnes' September 7, 1999, Award should be, and is hereby, affirmed in all respects.

The Appeals Board also approves and adopts all other orders contained in the Award.

IT IS SO ORDERED.

Dated this ____ day of January 2000.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Randy S. Stalcup, Wichita, KS
Douglas C. Hobbs, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director